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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,388	09/16/2003	Adrian Nania	539.1005	2916
23280	7590	01/21/2005	EXAMINER	
DAVIDSON, DAVIDSON & KAPPEL, LLC 485 SEVENTH AVENUE, 14TH FLOOR NEW YORK, NY 10018			GORDON, STEPHEN T	
			ART UNIT	PAPER NUMBER

3612

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,388

Applicant(s)

NANIA, ADRIAN

Examiner

Stephen Gordon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 9, 11 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9-16-03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant should note, the originally filed claims included two claims numbered "8". The second claim "8" and originally numbered claims 9-11 have been consecutively renumbered as claims 9-12 respectively per 37CFR 1.126. This action utilizes this new numbering scheme. Any future submissions by applicant should additionally rely on this corrected numbering.
2. Claims 9, 11, and 12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. Election was made **without** traverse in the reply filed on 11-22-04.
3. It is requested that applicant cancel non-elected claims 9, 11, and 12 in response to this action to facilitate the issue process if the application is ultimately allowed.
4. The disclosure is objected to because of the following informalities: in paragraph 32 – line 6, "base section 47" should be –base section 46--.

Appropriate correction is required.

5. Claims 1-8 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 1, lines 5-7 are confusing and apparently inconsistent with the invention as disclosed. As best understood, "first position" in line 6 and "second position" in line 7 could be replaced with –second position—and –first position—

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respectively to clarify the claim in this regard. Additionally it is noted, "an" in line 3 should be --a--.

Re claim 10, lines 6-8 are confusing and apparently inconsistent with the invention as disclosed. As best understood, "first position" in line 7 and "second position" in line 8 could be replaced with --second position--and --first position-- respectively to clarify the claim in this regard. Additionally it is noted, "an" in line 4 should be --a--.

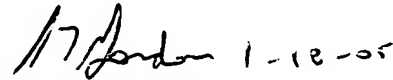
6. Claims 1-8 and 10 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note at least Doncov teaches a retractable top assembly with a backlite.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (703) 308-2556. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen Gordon
Primary Examiner
Art Unit 3612

stg